

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 11, 2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4 – 5, 13 – 14, 16 – 22, 103 – 106, 108 – 110 and 112 – 116 are rejected under 35 U.S.C. 102(b) as being anticipated by Holloway et al. (5,381,562).

As to claim 2, Holloway discloses a medical kit comprising at least one basin with a sidewall portion and a bottom wall portion and a conversion device on at least one of the sidewall portion and the bottom wall portion, the conversion device configured to confine fluid within the sidewall and bottom wall portions of the basin in a first state and form a drain (42) in a second state, through which fluid inside the basin can be

Art Unit: 3761

drained through at least one of the sidewall and bottom wall portions as set forth in col. 7, lines 3 - 15.

As to claim 4, Holloway discloses the conversion device located near the bottom of the at least one surface of the basin as set forth in figure 1.

With reference to claim 5, Holloway discloses a frangible portion as set forth in col. 7, lines 3 - 15.

As to claims 13 and 112, Holloway discloses a conversion device providing a tube as claimed as set forth in figure 1.

With respect to claims 14 and 113, Holloway discloses a medical basin wherein the cannula is integral with the sidewall as set forth in the figures.

Regarding claim 16, Holloway discloses a tube with a first end sized to engage a suction hose as set forth in figure 1.

With respect to claim 17, Holloway discloses a conversion device comprising a clip configured to engage a portion of the basin and to engage a suction hose so as to fix an end of a suction hose near the bottom wall portion of the basin as set forth in figure 7.

With reference to claim 18, Holloway discloses a conversion device including an aperture formed in the peripheral wall and a plug configured to engage the aperture as set forth in col. 7, lines 30 - 36 and in figure 9.

As to claims 19, 108 - 110 and 114 - 116, the conversion device may be interpreted as claimed and may comprise a threaded aperture and plug as set forth in col. 7, lines 30 - 36 and in figure 9.

Regarding claim 20, see col. 7, lines 30 – 34.

As to claim 21, see col. 7, lines 21 – 29 and figures 5 – 6.

With reference to claim 22, Holloway discloses a medical kit wherein at least one of the first and second ends of the tube is sized to engage a suction hose as set forth in figure 1.

As to claim 103, Holloway discloses a medical basin for collecting fluid during irrigation of a wound on a human anatomy comprising: at least one sidewall wherein the at least one convertible portion is configured to confine fluid within the basin by inhibiting fluid from passing through the at least one sidewall and bottom and define an aperture through the at least one sidewall and bottom when the at least one convertible portion is modified as set forth in col. 7, lines 3 - 15.

With reference to claim 104, Holloway discloses a frangible portion as set forth in col. 7, lines 3 - 15.

As to claims 105 and 106, Holloway discloses a medical basin wherein the at least one frangible portion is an annularly score as set forth in figure 1.

Allowable Subject Matter

Claims 1, 3, 6 – 12, 15, 107 and 111 are allowed.

Response to Arguments

Applicant's arguments filed April 11, 2008 have been fully considered but they are not persuasive.

With respect to the applicant's argument that the basin of Holloway is not adapted to confine fluid within the sidewall and bottom portions of the basin in either a first or second state, the examiner disagrees. Holloway discloses in col. 7, lines 1 – 49 that the fluid may be confined within the basin until manipulation of the clamp means (i.e., the clamp/seal is readily or easily broken) allows for drainage of the desirable amount of fluid.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an outlet or cannula having a first end adjacent an upper edge of the sidewall portion and a second end edge adjacent the bottom of the basin) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The examiner contends that the tube of Holloway may be considered to have a first end disposed at an upper edge of the sidewall portion and a second end disposed at the bottom of the sidewall portion as shown in figure 5. The upper edge and the bottom are relative terms that may be construed differently depending on what the portion is being related to. For example, the upper edge may be upper as compared to the bottommost portion and the bottom may be considered such as related to an upper portion.

Conclusion

This is a continuation of applicant's earlier Application No. 10/776,083. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761